



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY, SUITE 620
NASHVILLE, TENNESSEE 37243
615-741-1831**

**April 10, 2007
Room 640, Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met April 10, 2007, at 1:00 p.m. in Nashville, Tennessee, at the Davy Crockett Tower in Room 640. Chairman Marc Headden called the meeting to order, and the following business was transacted.

COMMISSION MEMBERS PRESENT

Luther Bratton
Marc Headden
William R. Flowers, Jr.
James E. Wade, Jr.
John Bullington

COMMISSION MEMBERS ABSENT

Dr. Richard Evans
Jason West
Sam Pipkin

STAFF MEMBERS PRESENT

Nikole Urban, Administrative Director
Bethany Heuer, Staff Attorney

ADOPT AGENDA

The commission voted to adopt the agenda. Mr. Bullington made the motion to accept the agenda and it was seconded by Mr. Wade. Motion carried unopposed.

MINUTES

The March 2007 minutes were reviewed. Mr. Flowers made the motion to accept the minutes as written. It was seconded by Mr. Bullington. Motion carried unopposed.

APPLICANT CONFERENCES

Victor Lamon Peters, Jr. made application for licensed appraiser and checked yes to a character question and was required, therefore, to appear before the Commission. Mr. Peters had pled Nolo Contendere to charges of battery/domestic abuse. He paid court cost of \$100 and was placed on probation for 20 months, was required to attend a batters' intervention program, and was also required to have no contact with the victim. While on probation he was arrested for breach of peace. Mr. Peters submitted this information in the form of a letter, and also attended the Commission meeting. Mr. Peters had applied in March, but did not attend the Commission meeting and his application was denied due to Commission policy for applicants for licensure to attend a Commission meeting to explain the affirmative answer to a character question on the application. A discussion was held on the appropriateness of a licensed appraiser with residence in California doing appraisals in Tennessee. Concerns were brought up regarding competency and market knowledge and experience. Tennessee does have a reciprocal agreement with California and there did not appear to be any cause to deny this application based on distance of residency alone. Mr. Bratton made the motion to grant approval of the application at this time. This motion was seconded by Mr. Flowers. The motion carried unopposed.

Mark Walter Schwobe made application for reciprocating certified general designation from Georgia and checked yes to a character questions and was required, therefore, to appear before the Commission. Mr. Schwobe had pled no contest to a DUI offense in Hampshire County, Massachusetts during the period between 1985 and 1987. No court records were available on this matter due to the age, type of transgression and the filing system of the time. Due to the age of this offense and no similar activity since, the motion to approve the application for reciprocal certified general designation was made by Mr. Flowers. Mr. Wade seconded this motion. The motion carried unopposed.

Jill Hunt sent in a letter to the Commission requesting approval of her 500 hour experience log and sought guidance on how many hours the Commission would consider for business valuation appraisals where there may be no real property/real estate involved in the appraisal assignment. Mr. Headden did the 500 hour experience audit of Ms. Hunt's appraisal work prior to the Commission meeting time. He said her appraisers were very good and offered her guidance on areas to improve. He recommended approval of her 500 hour experience log and stated applicants of this nature should report the number of hours they actually worked on these assignments and the experience would be reviewed at the end of their trainee period for approval as is the policy with other types of appraisal assignments. Mr. Wade motioned to approve this recommendation. Mr. Flowers seconded this motion. The motion carried unopposed.

GENERAL BUSINESS

Education Committee Report

Dr. Evans was unable to attend the Commission meeting due to a previous commitment, but he sent in his recommendation letter for the education report to staff. His recommendation was read into the minutes by staff to state, "My (Dr. Evans) recommendations are ready for education credit. All the items on the report you prepared are fine, with two exceptions. I recommend that Stephen Banim be granted 30 hours of qualifying education for the course, Appraisal of Land, that he took in 2002. However, I cannot tell how much time was spent on approved appraisal topics in the course, "Tennessee Assessment Law and Appraisal Fundamentals." The material he sent in does

not have a detailed list of topics or proportions like he provided for the land course. There was another course that the IAAO offered at the same time, "Fundamentals of Real Property Appraisal," that would probably have been the one an appraisers' commission would want to give credit for qualifying education. I recommend that he get zero credit for the Assessment Law course. Not on the printed list, but in the package I reviewed, was a course for continuing education, individual course approval, for Philip Russ. "Nashville Economic Forum 2007," an overview of the commercial real estate market in Nashville-Middle Tennessee, should be granted the requested 4 hours of continuing education credit." Mr. Flowers motioned that the Commission grant approval to all requested classes on the Education Report as recommended by Dr. Evans. Mr. Bratton seconded the motion. The motion carried unopposed.

EDUCATION COMMITTEE REPORT APRIL 9, 2007

Course Provider	Course Number	Course Name	Instructors	Hours	Credit Type
ASFMRA	1076	Cost Approach	Jum Cannon	8	CE
Appraisal Institute	1066	A Professionals Guide For Conservation Easement Appraisals	Katherine Eddins George Petkovich	4	CE
	1067	Real Estate Investing & Development: A Valuation Perspective	Ralph Griffin Leslie Sellers	7	CE
	1068	The Client Perspective on The Appraisal Profession	George Mann Donald Damron	4	CE
	1069	Rates & Ratios: Making Sense of GIM's, OAR's And DCF	Steve Roach	7	CE
	1070	The Real Estate Economy: What's in Store for 2008	Peter Korpacz	4	CE
	1071	Making Sense of the Changing Landscape of Valuation: Cool Tools-Cool Trends	Wayne Pugh Mark Linne	4	CE
Appraisal Institute Greater Tennessee Chapter	1074	Spotlight on USPAP: Hypothetical Conditions & Extraordinary Assumptions	Danny K. Wiley	3	CE
IRWA	1072	7 hour National USPAP	Thomas J. Crockett	8	CE
McKissock	1075	On-Line The Dirty Dozen	Kevin Branson	3	CE
WCA, Inc.	1065	Appraising Today	L. Wendell Hahn	14	CE

Individual Course Approval

Name	Course Provider	Course Name	Hours	Credit Type
Nathan Adams	Steven W. Vehmeier	7 Hour USPAP Update	7	CE
		Appraisal Now	3	CE
		Small Residential Income Property Appraisal	8	CE
		Sales Comparison Approach	7	CE
		Appraisal Forms Update	4	CE
Jennifer Martin	Academy of Real Estate Education	Trainee Pre-certification	30	QE
		National USPAP	15	QE
Bobby Long	Appraisal Educators	Review of Appraisal Concepts	7	CE
Phillip Russ	Council of Real Estate	Nashville Economic Forum	4	CE

**Course Approval for CR License
(LI License Expired 5-31-1996)**

Name	Course Provider	Course Name	Hours	Credit Type
Stephen Branim	TN Dept. of Property Assessment	Tennessee Assessment Law & Appraisal Fundamentals	0	Denied
	IAAO	Appraisal of Land	30	QE

NEW BUSINESS**Commission Policy #18**

The Commission opened a discussion about the policy in the approval process that requires all applications to be presented before the Commission where a character question has been marked with an affirmative answer regarding, "Have you ever been convicted of, or pled no contest to any criminal offense, or is there now any criminal charge pending against you?" After much deliberation about how much time should pass and what matters needed to be presented to the Commission the following policy was proposed to the Commission.

In cases where an applicant may be required to appear before the Commission because they have answered "yes" to question number three (3) on the character information page of their application, and the offense is five (5) years old or older, and the offense does not fall under T.C.A. §62-39-326(3) or (4), the Executive Director of the Tennessee Real Estate Appraiser Commission is authorized to approve any appraiser application in house without presentation to the Commission. The Executive Director in his/her discretion may present applications and/or applicants to the Commission for approval.

Mr. Wade made the motion to approve this recommendation and add it as a Commission policy on the website. Mr. Bullington seconded the motion. The motion carried unopposed.

62-39-319 (d) Influencing an Appraiser's Opinions

Administrative Director, Nikole Urban, presented TCA 62-39-319 to bring this to the attention of the Commission. Mrs. Urban stated that during a gap analysis of the laws and rules for the Real Estate Appraiser Commission it was noted that this TCA 62-39-319 gives the Commission the authority to refer matters where a business or person attempt to unethically influence an appraiser's opinions that it can be referred to the district attorney to be pursued as a Class A misdemeanor. TCA 62-39-319 (d) reads, "Any attempt by any person, corporation, governmental entity, bank or other financial institution to unduly intimidate an appraiser or influence an appraiser's report relating to market conditions or determination of value is a Class A misdemeanor."

EXPERIENCE INTERVIEWS

Jeff Ball, attended the Commission meeting to conduct the 500 hour experience audit with a Commission member. Mr. Bratton stated his appraisals looked good and Mr. Ball appears to be on track regarding appraisal experience and USPAP proficiency.

Chad Brown, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Bratton was the reviewer and recommended approval. Mr. Flowers made the motion to accept the recommendation and Mr. Bullington seconded the motion. The motion carried unopposed.

Jay Curtis, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Bratton was the reviewer and recommended approval. Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Kristine Schultz, made application to upgrade from licensed appraiser to certified residential. Mr. Bratton was the reviewer and recommended approval. Mr. Flowers made the motion for approval; Mr. Wade seconded the motion. The motion carried unopposed.

Steve Atkins, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Flowers was the reviewer and recommended approval because he said this person had a good working knowledge of the appraisal process. Mr. Bratton made the motion for approval; Mr. Bullington seconded the motion. The motion carried unopposed.

David Brocklehurst, made application to upgrade from a registered trainee to a licensed appraiser. Mr. Flowers was the reviewer and recommended approval and stated Mr. Brocklehurst had the ability to discuss the appraisals in detail and had a good grasp of appraisal principles. Mr. Bratton made the motion for approval; Mr. Wade seconded the motion. The motion carried unopposed.

Crystalyn Jontz, made application to upgrade from a registered trainee to a licensed appraiser. Mr. Flowers was the reviewer and recommended approval and stated Ms. Jontz had the ability to discuss the appraisals in detail and had a good grasp of appraisal principles. Mr. Bratton made the motion for approval; Mr. Wade seconded the motion. The motion carried unopposed.

Wendy Gardner, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Flowers was the reviewer and stated she appeared to have gained a good amount of appraisal education and had good knowledge of the profession and appraisal methods and, therefore, recommended approval. Mr. Wade made the motion for approval; Mr. Bullington seconded the motion. The motion carried unopposed.

Jill Hunt, attended the Commission meeting to conduct the 500 hour experience audit with a Commission member. Mr. Headden stated her appraisals looked good and she should be granted the 500 hours of appraisal experience and may count business valuations towards the appraisal experience requirement.

Riley Rector, made application to upgrade from a registered trainee to a certified general appraiser. Mr. Bullington was the reviewer and recommended approval of Mr. Rectors appraisal experience. Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Robert Hunt, attended the Commission meeting to conduct the 500 hour experience audit with a Commission member. Mr. Bullington stated his appraisals looked good and Mr. Hunt appears to be on track regarding appraisal experience and USPAP proficiency.

Milton Person, made application to upgrade from a registered trainee to a licensed appraiser. Mr. Bullington was the reviewer and recommended approval. Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Jeffrey Mark Hinton, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Wade was the reviewer and recommended approval. Mr. Bullington made the motion to accept the recommendation and Mr. Bratton seconded the motion. The motion carried unopposed.

Thomas Hetrick, made application to upgrade from a registered trainee to a licensed appraiser. Mr. Wade was the reviewer and recommended approval. Mr. Bullington made the motion to accept the recommendation and Mr. Bratton seconded the motion. The motion carried unopposed.

Michael E. Williamson, made application to upgrade from a registered trainee to a certified general appraiser. Mr. Wade was the reviewer and recommended approval. Mr. Bullington made the motion to accept the recommendation and Mr. Bratton seconded the motion. The motion carried unopposed.

Julia Thayer, made application to upgrade from a registered trainee to a licensed appraiser. Ms. Thayer had attended a previous meeting and was required to take additional courses and submit demonstration reports for experience audit after completion of those classes. She was not required to attend an additional experience interview. Mr. Wade was the reviewer and recommended approval. Mr. Flowers made the motion to accept the recommendation and Mr. Bullington seconded the motion. The motion carried unopposed.

LEGAL REPORT

Mr. Headden signed consent orders for the following after Commission approval:

John Slickmeyer, Jr. – signed Consent Order agreeing that he committed USPAP violations in an appraisal of a residence by misreporting property characteristics and paid \$300.00 in civil penalties.

Elizabeth F. Norris – Three complaints were combined on the signed Consent Order which the respondent agreed that she committed USPAP violations in an appraisal of a residence by failing to report the sales history and over-stating the square footage of the dwelling. In accordance with the consent order the respondent agreed to complete a seven (7) hour course in Sales Comparison Grid Adjustments and paid \$500.00 in civil penalties. No violations were stipulated for the remaining two complaints included.

Gwendolyn Lanford – signed Consent Order agreeing that she committed USPAP violations in the appraisal of a residence by not maintaining the cost approach in her work file as indicated in the report, by not using forms required by Supplemental Standard, by not developing the cost approach, and by not including the listing history of the subject property. The respondent agreed, in accordance with the Consent Order, to complete a fifteen (15) hour USPAP course, a seven (7) hour Scope of Work course, and a thirty (30) hour Report Writing or Procedures course before submitting an experience log for upgrade to certified residential and that five (5) appraisals will be reviewed at that time. All of the courses must be completed prior to August 1, 2007.

John Trice – signed Consent Order agreeing that he committed USPAP violations in an appraisal of a residence by not reconciling the data used to determine the market value of the subject property and not competently performing the cost approach, and also by not stating the intended use of the appraisal, not identifying an extraordinary assumption or hypothetical condition that may have been needed due to access restrictions, and by not adequately describing a second house and its condition within the report. The respondent agreed, in accordance with the Consent Order, to complete a seven (7) hour USPAP course and to pay a civil penalty in the amount of \$1,000.

Margi Lane – signed a Consent Order agreeing that she committed USPAP violations by submitting an invoice to a bank for "Services Rendered" in order to charge for personal football tickets given to a loan officer. The respondent agreed, in accordance with the Consent Order, to complete a seven (7) hour USPAP course and to pay a civil penalty of \$1,000.

Michael E. Williamson – signed a Consent Order agreeing that he committed USPAP violations by failing to supervise his trainee properly and by reporting on the appraisal that he had inspected the subject property when he had not. The respondent agreed, in accordance with the Consent Order, to complete a fifteen (15) hour USPAP course within three (3) months of execution of the Consent Order and to pay a civil penalty of \$1,000.

Vote for all Consent Orders: Mr. Bullington moved to approval all consent orders. Mr. Bratton seconded that motion. The motion carried unopposed.

1. Case No: L07-APP-RBS-2007053281 –The reviewer was Mr. Bullington.

The Complainant alleged that the Respondent behaved unprofessionally while inspecting the subject property, failed to analyze the purchase agreement, provided an oral appraisal prior to establishing support for the opinion of value, and failed to inspect the entire subject property. In his response letter, the Respondent denied unprofessional conduct and offered character support. The Respondent conceded that he may have incorrectly noted that the seller was paying closing costs of behalf of the buyer, but that it would not have affected the opinion of value. The Respondent denied that he provided an oral appraisal report to the consumer without support. He stated that he sought additional comparables from the seller's agent when, "I was not reaching the sales price, but I know that an opinion of value was never stated." The Respondent also stated in his response letter he had previously appraised the subject property for the Department of Veterans Affairs as a foreclosure property and, at that time, did not have access to the entire property. The Respondent stated he viewed all rooms on the interior of the house from, at least, the doorway of each room, and referred to the deferred maintenance list in the appraisal report as proof of entering those rooms. Prior complaints; none.

Recommendation and reasoning: Dismissal due to no significant errors identified within the appraisal report.

Mr. Bratton made the motion to approve the recommendation and Mr. Wade seconded that motion. The motion carried unanimously.

2. Case No.: L04-APP-RBS-2004201991; L05-APP-RBS-2005007861; L05-APP-RBS-2005040451 The reviewer was Mr. Headden. These complaints are being represented to change recommendation made prior to informal conference.

L04-APP-RBS-2004201991 The Complainant alleged that the Respondent overvalued the subject property by appraising it for \$300,000 when the Complainant stated that the property value should have been between \$125,000 and \$200,000. The Complainant alleged that the Respondent failed to accurately state the above and below grade square footage, that the selected comparables were superior in quality to the subject, that the Respondent failed to make location adjustments for the comparables, and stated that comparable number three was 18 years old when it was built in 2001. The Respondent stated that the appraisal was never completed by him and it was never submitted to the lender; the appraisal submitted by the Complainant was not signed by the Respondent. Complainant stated that the unsigned appraisal was prepared by the Respondent for the client (mortgage company) and the client relied on this appraisal to approve a loan in the amount of \$180,000.

L05APP-RBS-2005040451 Complainant alleged that the Respondent performed a misleading appraisal through the following errors: (1) Comparables are 2.2 to 3.8 miles away from the subject; (2) The location map puts the comparables in the wrong locations; (3) Comparables are actually located 15 to 20 miles away from the subject in superior locations. Respondent stated that the Complainant has not submitted the complete appraisal report; the completed report contains commentary and addenda and explains that there was a malfunction in the Respondent's appraisal software relative to the location map and the Respondent notified the loan officer of the software problem.

L05-APP-RBS-20050077861 Complainant alleged that the Respondent made the following errors in his appraisal: used improper comparables (subject is in a gated golf course community, but sale 3 is not gated and sale 3 is waterfront property and the Respondent failed to make an adjustment for the boat lift, screen porch or lot); used incorrect data for the comparables (square footage, year built, garages); Respondent appraised the property which was 2+ hours away from the

Respondent's office. Prior complaints: 951383 – Closed; 200004329 – Closed; 200315455 – Consent Order with \$100.00 civil penalty for failure to advise of change in address. Mr. Headden previously recommended a (6) six month suspension and downgrade from CG to CR, a 45 hour residential report writing class (with a passing test – and not to count for continuing education), and a civil penalty of \$5,000, which was approved in January.

Recommendation and reasoning: Approval of a consent order for \$1,500 civil penalty, thirty (30) hour report writing course (will count towards continuing education), 15 hour USPAP (no continuing education) due to a work file retention violation, failure to describe the neighborhood and property characteristics, and failure to report and analyze the sales history of the subject property. Mr. Flowers motioned to approve the recommendation. Mr. Wade seconded the motion. The motion carried unopposed.

3. L06-APP-RBS-2006040861 Mr. Wade was the reviewer.

According to the complaint, Respondent accepted a \$2,000.00 payment as a portion of an appraisal fee to provide appraisals on 16 single family residential houses. The complaint stated that she has not delivered the appraisal reports nor returned the funds over a 7 week period prior to the complaint even though numerous requests were made to do so. Also, the respondent has not provided a copy of the appraisal reports to the Tennessee Real Estate Appraiser Commission as repeatedly requested since the complaint was first filed in October, 2006. An informal conference was held with Mr. Wade on 3/12/2007 and he told the Respondent to submit the appraisals by 3/16/2007 to the Real Estate Appraiser Commission office. The Respondent has still not complied with requests for the appraisals. Prior complaints; none.

Recommendation and reasoning: Move to formal hearing and revocation or suspension due to non-compliance with Commission requests for appraisals.

Mr. Bullington made the motion to approve the recommendation. Mr. Flowers seconded the motion. The motion carried unopposed.

4. L07-APP-RBS-2007050561 Mr. Bratton was the reviewer.

The Complainant in this case was HUD. The complaint alleged that the Respondent failed to describe property characteristics, the appraisal report contained numerous errors including in the adjustments made in the Sales Comparison Approach, and also that the respondent failed to analyze the sales history. The Respondent stated in his response letter that the comparables used were extremely proximate to the subject and similar in age to the subject property. The Respondent admitted that the adjustment for size to Comparable two was made in error, but that this error would not have affected the value opinion. The Respondent also admitted that the closing date of one of the comparables was also misreported. Regarding a second property appraised, the respondent stated that the sales prices were confirmed through the MLS and the listing broker, and that though courthouse retrieval had a sale price difference of \$190, this would not have affected the value opinion in this appraisal. The Respondent also stated that one of the comparables did not have a porch at the time of sale and that this feature was added after the sale, and was not, therefore, adjusted in the sales grid. The Respondent stated he did make an error in an adjustment for financing, but it would not have altered the value opinion. Prior complaints: 941783 Closed; 199900653 Closed with a Letter of Warning.

Recommendation and reasoning: This complaint was deferred for recommendation until May.

5. **L07-APP-RBS-20070505581 Mr. Bullington was the reviewer.**

The complaint from a consumer alleged that the Respondent copied another appraiser's appraisal without referencing assistance in the appraisal report and failed to inspect the subject property. In addition, the complaint alleged the Respondent retained two appraisal fees, paid by the lender and borrower, for the same assignment. The Respondent stated that he made a visual inspection of the subject property, but did not measure the property on that date because he had done an appraisal on this same property previously and had measured it at that time. The Respondent stated that the Complainant did provide him with a previous appraisal, but he did not use this appraisal to develop his appraisal. The value opinions for the two appraisals were different as was information included in the reports. The Respondent also stated that as proof of inspection of the subject property, interior photos were included in the appraisal report. Prior complaint history; none. **Recommendation and reasoning:** Dismissal due to no significant errors identified within the appraisal report and sufficient proof of interior inspection of the subject.

Mr. Wade motioned to approve this recommendation and Mr. Bratton seconded that motion. The motion carried unopposed.

6. **L07-APP-RBS-2007050591 Mr. Pipkin was the reviewer.**

The complaint alleged the Respondent misreported the bedrooms and bathrooms in the subject property and did not include the full basement in the total square footage when the house is built on a concrete slab and is entirely above ground. The Complainant also alleged the building sketch is not correct. The Respondent admitted a bathroom may have been missed, but was not allowed to re-inspect the property to verify this. The Respondent stated he labeled a room, the Complainant called a bedroom, as a play room which was located on the lower level. The Respondent stated that the front left corner of the subject was below grade and that the Assessor's office also labeled it is a finished basement. The Respondent stated he believed his measurements of the house to be reasonably correct. Prior complaint history; none.

Recommendation and reasoning: recommendation of a Letter of Warning, per Mr. Pipkin, regarding measuring the subject and reporting property characteristics.

Mr. Flowers made the motion to approve this recommendation. This motion was seconded by Mr. Bullington. The motion carried unanimously.

7. **L07-APP-RBS-2007050601 Mr. Wade was the reviewer.**

The complaint alleged the Respondent was involved in a fraudulent appraisal scheme involving a resort cabin community to inflate appraised values of properties in this development. The Respondent stated in his response letter that he has appraised 25 cabins in this development and that he used comparables that were similar in regards to GLA, proximity, and appeal in his determination of the value opinion. Review of the appraisal found that there was no analysis of the listing history or current purchase agreement, that the site value was not supported within the appraisal report, and that the cost per square foot use in the cost approach did not seem consistent with the source cited. The adjustments made in the Sales Comparison Approach (\$20/sq ft) did not seem appropriate for new construction cabins which were reported to have a cost of \$225 per square foot in the cost approach. The basement adjustments were not applied consistently. Site adjustments in the Sales Comparison Approach were not supported and were inconsistent with the site value indicated in the Cost Approach. Bathroom adjustments did not seem appropriate or supported. Prior complaints; none. **Recommendation and reasoning:** recommendation for approval of informal conference and formal hearing, if needed. Also, approval of a Consent Order, per Mr. Wade, which would require a thirty (30) hour appraisal procedures course with examination

and a fifteen (15) hour site and cost approach course with examination within 90 days of signing the consent order due to above noted USPAP violations and issues of competency.

Mr. Bullington made the motion to approve this recommendation. Mr. Flowers seconded that motion. The motion carried unopposed.

8. L07-APP-RBS-2007050611 Mr. Pipkin was the reviewer.

The complaint alleged use of superior comparables and USPAP violations that were found during an appraisal review assignment by the Complainant. The complaint alleged failure to include a description of the neighborhood, no description of market analysis, no description of the improvement, and the use of sales in superior locations. The reviewer (Mr. Pipkin) found that the Respondent's appraisal contained the information that the Complainant reported was not included and that he may have been given an incomplete version of the appraisal for the purpose of the foreclosure review. Prior complaints; none. **Recommendation and reasoning:** recommendation of dismissal, as per Mr. Pipkin, due to lack of USPAP violations found within the appraisal report submitted by the respondent.

Mr. Wade made the motion to approve this recommendation and Mr. Flowers seconded the motion. The motion carried unopposed.

9. L07-APP-RBS-2007050631 Mr. Headden was the reviewer.

The complaint alleged the Respondent used superior comparables and committed USPAP violations. The Respondent stated that the comparables used in his appraisals were more similar than those used by the Complainant in the appraisal review. The Respondent submitted public record data to verify his source for information on property characteristics such as central air conditioning and condition of the properties. Prior complaint history; none. **Recommendation and reasoning:** This complaint was deferred for recommendation until May.

10. L07APP-RBS-2007050981 Mr. Bullington was the reviewer.

The Respondent appraised vacant land in a subdivision. Complaint alleges the Respondent committed substantial errors of omission or commission that affected the assignment results, failed to identify the intended use, and violated TCA 62-39-302 by exceeding the limits of the type of property that a licensed residential appraiser may appraise. No approaches to value were included in the appraisal report, only a value indication referencing the sales comparison approach. The response acknowledges that the sales comparison approach was omitted and that negligence was committed in issuing the report without a supporting valuation approach. The respondent also acknowledges that the scope of work, the intended use, the source and definition of value, the property characteristics, the highest and best use, the sale and listing history, and the reconciliation were also not reported in the appraisal report. In addition the respondent failed to include a signed certification, which he also acknowledges was negligent. Prior complaint history: one closed with letter of warning regarding reporting inconsistencies; one dismissed; one closed.

Recommendation and reasoning: for approval of Consent Order offered at informal conference which included a thirty (30) hour course in appraising Single Family Residences, a fifteen (15) hour USPAP course, a course in Advanced Report Writing for (?) hours, all classes to have an examination, and the submission of two appraisal reports after that time to illustrate USPAP proficiency. The recommendation was due to clear evidence of lack of competency in appraisal techniques and reporting requirements.

Mr. Wade made the motion to approve this recommendation and Mr. Flowers seconded that motion. The motion carried unopposed.

11. L07-APP-RBS-2007053501 Mr. Flowers was the reviewer.

This complaint was filed by a consumer who had several properties appraised by the respondent for use in tax appeal. The Complainant alleged the Respondent (a registered trainee) completed the appraisal assignments, but when the date for the appeal arrived, the Respondent did not attend the court even though he had been subpoenaed to testify. The second Respondent in this case was the supervisory appraiser, who stated in his response that he was not subpoenaed and never had contact with the Complainant. The Respondent (trainee) stated that he told the Complainant that there would be a charge to testify in court and that after that conversation he never heard from her again. Prior complaint history: Supervisor **937745** Closed; Letter of Instruction and Consent order with classes due to numerous USPAP violations found during audit of appraisal experience. **941844** Closed; Trainee **200208494** Closed; Consent order to remove advertisement until he was a licensed appraiser. Both **200420648** Dismissed. **Recommendation and reasoning:** recommendation for dismissal because it is outside the Commission's purview. Mr. Bullington made the motion to approve this recommendation and Mr. Wade seconded that motion. The motion carried unopposed.

12. L07-APP-RBS-200705411 Mr. Pipkin and Mr. Headden were the reviewers for this complaint.

This complaint alleged that the Respondent over-valued the subject property. There has been no response at this time to this complaint that was filed on 3/19/2007. Prior complaint history: 941728 or 94 APP 0340 (145) Letter of Instruction; 199901513 Dismissed; 200003825 Closed with no further action; 2001021991 (490) Dismissed; 200208253 (550) Closed with letter of instruction; 2003145061 Closed with no further action; 200315598 Dismissed; 200419830 Consent order \$100; 200603962 Open; 200704682 Open. **Recommendation and reasoning:** recommendation to combine this complaint with the other two open complaints scheduled for formal hearing for this Respondent. Mr. Wade made the motion to approve this recommendation. Mr. Flowers seconded that motion. The motion carried unopposed.

13. L07-APP-RBS-2007054221 Mr. Flowers was the reviewer.

This complaint alleged the Respondent created a misleading appraisal report by altering the adjustment percentage information, made adjustments inappropriately, and failed to support depreciation estimates. The Respondent stated that the adjustments not showing on a copy provided by a trainee during an experience interview was due to the software not issuing it on e-mailed documents. He also stated he did not know which depreciation adjustments to which the complainant was referring, therefore, he could not respond fully to that allegation. Prior complaint history; none. **Recommendation and reasoning:** recommendation for approval of informal conference and a Consent Order which would require a thirty (30) hour Single Family Residential course that would count towards continuing education and a \$300 civil penalty due to lack of competency in applying depreciation in the cost approach and reporting errors found in the appraisal reports submitted. Mr. Wade made a motion to approve that recommendation. Mr. Bullington seconded that motion. The motion carried unopposed.

14. L07APP-RBS-2007054131 Mr. Bullington was the reviewer.

This complaint alleged over-valuing of the subject property by using Comparables outside the subdivision and in a superior subdivision. This complaint was filed in response to a request from the Defendant's lawyer in a civil suit for an expert witness to testify that a Broker and an instructor for a Real Estate school were not qualified to testify in an appraisal review capacity against this defendant. Information provided in the affidavits of these two persons lead to the Real Estate Appraiser Commission filing a complaint to determine validity of the over-valuation claims. The response submitted by the lawyer for the defendant stated that the comparables used were appropriate because the subject is a high-end custom built home in this subdivision and it was necessary to leave the subdivision to find comparables of similar quality. Prior complaints; none.

Recommendation and reasoning: Consent Order with a \$1,000 civil penalty and approval for informal conference and formal hearing, if needed, due to use of superior quality comparables and that are located in a subdivision with superior market demand.

Mr. Bratton made the motion to approve this recommendation. Mr. Wade seconded the motion. The motion carried unopposed.

15. L07-APP-RBS-2007054181 Mr. Bullington was the reviewer.

This complaint was filed by the Real Estate Appraiser Commission in response to the request from the lawyer in the above complaint, for the Commission to render an opinion on whether the Respondent had performed an unlicensed appraisal review when acting as an expert witness against the above respondent by claiming the appraised value was too high. The Respondent in this case is a Real Estate Broker. In the response received from the lawyer for this Respondent, it was pointed out that there is a statutory provision 62-39-335 which states that, "No provision of this chapter shall act or be construed to prohibit a real estate broker licensed under chapter 13 of this title from testifying as to the value of property in court cases as an expert witness and receiving a fee for such testimony subject to review by the court." **Recommendation and reasoning:**

Dismiss due to the statutory exception.

Mr. Bratton made the motion to approve this recommendation and Mr. Wade seconded that motion. The motion carried unopposed.

16. L07-APP-RBS-2007054201 Mr. Bullington was the reviewer.

This complaint was filed by the Real Estate Appraiser Commission in response to the request from the lawyer in the above complaint #14, for the Commission to render an opinion on whether the Respondent had performed an unlicensed appraisal review when acting as an expert witness against the above respondent by claiming the appraised value was too high. The Respondent in this case is an instructor at a Real Estate School. In the response received from the lawyer for this Respondent, stated he did not feel he completed an appraisal review assignment and, "looked over the appraisals in question for the purpose of establish my own opinion of the quality, and that was the extent of the conversation." The Respondent provided a letter of engagement in which he wished to point out, "the final paragraph wherein I'm specifically directed not to provide any written report, merely to review and discuss my opinion." **Recommendation and reasoning:**

recommendation for a stern letter of warning with cease and desist language.

There was some discussion as to whether a civil penalty should be issued in this case, but it was determined that the instructor may have been ignorant of the laws and rules regarding this review appraisal assignments and the Letter of Warning should be sufficient to stop this in the future. Mr. Flowers made the motion to approve this recommendation and Mr. Bratton seconded the motion. The motion carried unopposed.

17. L06-APP-RBS-2006036051 No reviewer yet assigned.

This case involves a Respondent with a reciprocating license from Alabama. Alabama had issued an administrative fine of \$725 and a three month suspension and the respondent was on probationary status for 18 months. The fine was not initially paid by the Respondent, but has since been resolved. The Respondent has since been reinstated in Alabama. The Consent Order that the Respondent signed in Alabama referenced an appraisal of an environmentally contaminated property. The respondent had not submitted to the lender an addendum which addressed this issue, but when the complaint regarding this appraisal was opened the Respondent added the addendum regarding environmental contamination. The Respondent was found to have failed to report and/or analyze the impact of environmental contamination on the subject's value and marketability. The Respondent was also found to have used sales in the sales comparison analysis that were outside the area identified as suspected of environmental contamination and did not report that the market area for the comparables was not in close proximity to the area suspected or known to be contaminated. The area was widely known to be contaminated through television ads, newspaper articles and EPA publications. The Respondent did not notify the Tennessee Real Estate Appraiser Commission of his address change and staff has been trying to locate him since the complaint was filed in September of 2006. The Respondent has recently been located, though he still has not submitted the change of information form. He stated in his e-mail to staff that, "I just got back to Alabama and got the letter...the Alabama Board did not call or mail me saying they did not receive the contested fine for an appraisal in 2002. They mailed me a letter saying I was suspended and I sent the money that day, hand delivered, so I was suspended for that day. The Alabama Appraisal Board is totally unfair to appraisers. I will send a letter of explanation. I am currently pursuing legal action against the Board for extreme prejudice." Prior complaint history: none. **Recommendation and reasoning:** recommend a civil penalty of \$100 for failure to change his address in a timely manner. The Commission's authority in this instance is based on reciprocal discipline statute, therefore, a recommendation for a Consent Order with civil penalty addressing failure to report property characteristics and altering an appraisal in a fraudulent manner. The Respondent has not submitted a proper response letter at this time; staff further recommends obtaining the response and the appraisal from the Respondent and approval of an informal conference, if needed.

Mr. Bratton made the motion to proceed to formal hearing with this complaint due to failure of the Respondent to respond to the complaint in seven months with a further recommendation for revocation. Mr. Bullington seconded that motion. The motion carried unopposed.

18. L04-APP-RBS-2004214171 Mr. Headden was the reviewer.

This is a case from 2004 which involved an appraiser who performed an appraisal assignment after his license expired on 04/30/2003. The Respondent has since not performed any appraisals that staff has been made aware. Prior complaint history: 3 closed: 941852, 945685, 200316282.

Recommendation and reasoning: staff made a recommendation of a Consent Order, with the civil penalty being waived due to the Respondent's complete inability to pay and his age. The Consent Order, with cease and desist language, should outline that he understands that if he engages in any other unlicensed conduct, the Commission will re-open this case and seek \$1,000 civil penalty for each of the two cases for unlicensed conduct and any other USPAP violations found in the appraisal reports and also refer the complaints to the local District Attorney for misdemeanor prosecution.

Mr. Wade made the motion to approve this recommendation and Mr. Bullington seconded that motion. The motion carried unopposed.

19. L07-APP-RBS-2007054121 Mr. Headden was the reviewer.

This complaint is based on an appraisal of a residence in a rural area. This complaint alleged the Respondent 1, who signed the appraisal, did not inspect the subject property but stated on the appraisal report that he had. That Respondent 2 made unprofessional statements while inspecting the subject property. Also, alleged was that the year built was misreported by one year and that the exterior was log siding, not the vinyl siding reported on the appraisal. Finally, the Complainant alleged the Respondents used comparables that were inappropriate and not similar to her 88 acre site with lake view and in a restricted community. The Respondent 2, who is a Certified Residential Appraiser, stated in her response letter that the other Respondent 1 was not able to make the appointment due to illness, so she did the inspection alone. She stated that during the inspection they were speaking about shopping and she stated there was "nothing around here" regarding shopping and the Complainant must have been offended by that statement. Respondent 1 stated he failed to disclose in the appraisal report that he did not inspect the property and mistakenly reported the exterior as vinyl when it was in fact log siding. He stated that public records reports the year built at 1998 which is what was reported on the appraisal and that it was difficult to find comparables to the subject due to the large lot size and gross living area of the subject and that he made adjustments for the subject's lake frontage. Respondent 1 stated he used 5 comparables with lake frontage. **Recommendation and reasoning:** recommendation for dismissal of this complaint.

Mr. Flowers made the motion to approve the recommendation. Mr. Wade seconded that motion. The motion carried unopposed.

20. L07-APP-RBS-2007056481 The reviewer is Mr. Pipkin.

This complaint alleges over-valuing of the subject property and misreporting property characteristics, including a long list of deferred maintenance. This Respondent has another complaint open at this time 2004211731, which is scheduled for informal conference.

Recommendation and reasoning: recommendation of combining this complaint with the other scheduled for informal conference and approval of a consent order to be determined by the reviewer during the informal conference, and also to approve formal hearing, if needed.

Mr. Flowers made the motion to approve this recommendation. The motion was seconded by Mr. Wade. The motion carried unopposed.

Being no further business, Mr. Bratton recommended adjourning meeting and this motion was seconded by Mr. Wade. The motion carried unanimously and the meeting was adjourned at 4:30 p.m.

Nikole Urban, Administrative Director

Marc Headden, Chairman